

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #16	CCRB Case #: 201605625	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/21/2016 6:00 PM	Location of Incident: Over the telephone; 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 11/21/2017	EO SOL 11/21/2017	
Date/Time CV Reported Wed, 06/29/2016 11:18 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 06/29/2016 11:18 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM David Oyague	01807	953159	075 PCT
2. POM Robert Delaney	16514	957525	075 PCT
3. POM Anthony Lee	28870	938833	075 PCT
4. POM Steven Owens	31335	933135	075 PCT
5. POM Matthew Drury	14564	948917	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Hall	00530	904097	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Robert Delaney	Abuse of Authority: Over the telephone, Police Officer Robert Delaney did not process § 87(2)(b) complaint regarding officers.	A . § 87(2)(g)
B . POM David Oyague	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague threatened to arrest § 87(2)(b).	B . § 87(2)(g)
C . POM David Oyague	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague did not process § 87(2)(b) complaint regarding officers.	C . § 87(2)(g)
D . POM Robert Delaney	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Robert Delaney did not process § 87(2)(b) complaint regarding officers.	D . § 87(2)(g)
E . POM David Oyague	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague threatened to arrest § 87(2)(b).	E . § 87(2)(g)
F . POM Anthony Lee	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Anthony Lee did not process § 87(2)(b) complaint regarding officers.	F . § 87(2)(g)
G . POM Steven Owens	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Steven Owens did not process § 87(2)(b) complaint regarding officers.	G . § 87(2)(g)
H . POM Matthew Drury	Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Matthew Drury did not process § 87(2)(b) complaint regarding officers.	H . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
I . POM Robert Delaney	Other: There is evidence suggesting Police Officer Robert Delaney provided a false official statement in violation of NYPD Patrol Guide procedure 203-08, which the CCRB referred to IAB on November 22, 2016, generating IAB log 2016-41417.	I . § 87(2)(g)
J . POM David Oyague	Other: There is evidence suggesting Police Officer David Oyague provided a false official statement in violation of NYPD Patrol Guide procedure 203-08, which the CCRB referred to IAB on November 22, 2016, generating IAB log number 2016-41417.	J . § 87(2)(g)

Case Summary

On June 29, 2016, § 87(2)(b) filed this complaint with the CCRB as a walk-in.

At approximately 4:30 p.m. on May 21, 2016, § 87(2)(b) observed PO Ruddy Pina and Michael DeVito of the 75th Precinct sitting in a marked vehicle near the intersection of Jamaica Avenue and Miller Avenue in Brooklyn. Their vehicle was pointed against the flow of traffic. § 87(2)(b) approached the officers and told them that they were parked improperly. The officers told him that they had been instructed to park in that position by their commanding officer, who could be reached by telephone at the 75th Precinct stationhouse.

§ 87(2)(b) called the stationhouse directly and spoke to the telephone switchboard operator, PO Robert Delaney. § 87(2)(b) told PO Delaney that he wanted to file a complaint about the way that PO Pina and PO DeVito were parked. PO Delaney told § 87(2)(b) that the matter was not serious, and told him to leave the two officers alone (**Allegation A**). § 87(2)(b) told PO Delaney that he was going to travel to the stationhouse directly to file his complaint against PO Pina and PO DeVito, as well as against PO Delaney for being rude.

At approximately 6:00 p.m., § 87(2)(b) traveled to the 75th Precinct stationhouse to file his complaint directly. § 87(2)(b) entered the stationhouse and approached the front desk. He recorded this interaction using his cell phone. PO Oyague told § 87(2)(b) that he was not allowed to record by the front desk, but that he could record freely in the adjacent waiting room. When § 87(2)(b) did not stop recording, PO Oyague told him, “If you don’t step outside, you’re going to be collared.” When § 87(2)(b) asked him what he meant by this, PO Oyague stated, “Arrested” (**Allegation B**).

§ 87(2)(b) then went to the waiting area, where he spoke to PO Oyague and PO Delaney. PO Oyague asked § 87(2)(b) repeatedly to describe his complaint. § 87(2)(b) stated that he would prefer to fill out a complaint form himself. He also requested to speak to a supervisor. PO Oyague and PO Delaney told § 87(2)(b) that he could not fill the form out himself, and refused to provide the form to § 87(2)(b) (**Allegations C and D**). He also told § 87(2)(b) that he would not notify a supervisor. § 87(2)(b) continued to insist on filling out a form. PO Oyague told him, “Either you make this difficult, or you make it easy.” When § 87(2)(b) asked what he meant by this, PO Oyague stated, “Difficult means you go in handcuffs, go in the cells.” When § 87(2)(b) asked why he would be arrested, PO Oyague replied, “For being disorderly” (**Allegation E**).

§ 87(2)(b) spend several more minutes asking the officers to either provide him with a form. Eventually, the officers walked away, leaving § 87(2)(b) in the waiting area. § 87(2)(b) flagged down PO Anthony Lee. When § 87(2)(b) told PO Lee that he wanted to file a complaint against an officer, PO Lee responded that only a supervisor could take such a complaint. § 87(2)(b) told PO Lee that PO Oyague had refused to inform a supervisor of the complaint. PO Oyague then approached § 87(2)(b) and told him, “Get out, bro. Just get out.” PO Oyague then escorted § 87(2)(b) out of the stationhouse. PO Lee did not report this complaint to a supervisor (**Allegation F**).

While outside of the stationhouse, § 87(2)(b) approached another officer, PO Steven Owens. PO Owens allowed § 87(2)(b) to come back into the stationhouse. § 87(2)(b) told PO Owens that an officer had assaulted him, and that he wanted to file a complaint against the officer. PO Owens told § 87(2)(b) “Do what you got to do.” He then walked into another room. PO Owens did not report § 87(2)(b)’s complaint to a supervisor (**Allegation G**).

§ 87(2)(b) remained in the waiting area for several more minutes. He then flagged down PO Matthew Drury, and told him that he wanted to speak to a supervisor in order to file a complaint against an officer who had assaulted him. PO Drury told § 87(2)(b) that a supervisor was not available at the time, but that he could wait to speak with one. PO Drury then left the room. No supervisor, however, ever spoke to § 87(2)(b) (**Allegation H**). § 87(2)(b) waited at the stationhouse for another hour before ultimately leaving. He was not ultimately able to file his complaint at the stationhouse.

The CCRB found evidence suggesting that PO Delaney and PO Oyague provided false official statements regarding this incident (**Allegations I and J**). This matter was referred to IAB as a spin-off case on November 21, 2016, generating IAB log # 2016-41417.

§ 87(2)(b) provided three videos that he recorded on his cell phone. The full videos have been attached in IAs #2-4 (See Board Review #1-3: Video Footage), with a summary attached in IA #12 (See Board Review #4: Video Summary). The relevant portions of these videos were captured via SnagIt (See Board Review #5-9: SnagIt Captures). Due to technical issues, these videos could not be attached to the report itself. They will instead be referenced below via Board Review.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- § 87(2)(b) filed a notice of claim with the NYC Comptroller’s Office on § 87(2)(b). In it, he made allegations of threat of arrest and physical force. § 87(2)(b) stated that he has experienced pain in his chest since the incident due to physical force used by PO Oyague. He seeks \$20,000 in damages (See Board Review #10: Notice of Claim).
- On November 30, 2016, Michael Harray from the NYC Comptroller’s Office stated that he has been unable to locate records for any 50-H hearings held in regards to § 87(2)(b)’s complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) (See Board Review #12: Civilian CCRB History).

- PO Delaney has been a member of the service for one year. These are the first CCRB allegations made against him.
- PO Oyague has been a member of the service for four years and there are no substantiated CCRB allegations against him. The only previous allegation made against him, a physical force allegation, was administratively closed.
- PO Lee has been a member of the service for eleven years and there are no substantiated CCRB allegations against him. He has been the subject of thirteen allegations in eight complaints. This is the first refusal to process a civilian complaint allegation made against him.
- PO Owens has been a member of the service for thirteen years and there are no substantiated CCRB allegations against him. He has been the subject of fifteen allegations in nine complaints. This is the first refusal to process a civilian complaint allegation made against him.
- PO Drury resigned from the NYPD after the incident, so it cannot be determined how long he was a member of the service. Two previous CCRB allegations were substantiated against him. In case #201509458, refusal to provide name and shield number and discourtesy (word) allegations were substantiated against him. He was given a command discipline. He was the subject of eleven allegations in six complaints. This is the first refusal to process a civilian complaint made against him.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) described the last officer whom he tried to file his complaint with as a white male in his thirties with black hair. This officer was shown at the end of § 87(2)(b)'s final video. None of the officers interviewed were able to identify this officer. PO Lee stated that he recognized the officer's face, and that the officer seen on the video had recently resigned from the NYPD. On October 14, 2016, a section on § 87(2)(b)'s video showing this officer was forwarded to Sgt. Brian Sarosy, the 75th Precinct's assistant Integrity Control Officer. Sgt. Sarosy identified this officer as PO Matthew Drury. He also stated that PO Drury resigned from the NYPD in September of 2016. § 87(2)(g)

Allegations not pleaded

- **Force – Physical Force:** A physical force allegation has not been pleaded in regards to PO Oyague removing § 87(2)(b) from the stationhouse. § 87(2)(b) characterized this action, both in his interview and within the video itself, as an assault. § 87(2)(b) stated that PO Oyague placed his palm on § 87(2)(b)'s chest and walked forwards, pushing § 87(2)(b) along with him. § 87(2)(b) was not knocked over. While § 87(2)(b) did not state in his interview whether he was injured, he stated in his Notice of Claim that he has suffered ongoing pain to his chest as a result of PO Oyague's action. § 87(2)(g)

Allegation A –Abuse of Authority: Over the telephone, Police Officer Robert Delaney did not process § 87(2)(b) s complaint regarding officers.

§ 87(2)(b) was interviewed at the CCRB on June 29, 2016 (See Board Review #13: § 87(2)(b) s Statement). He stated that after he spoke to PO Pina and PO DeVito, he called the 75th Precinct stationhouse directly in order to complain about the way that the officers had parked their vehicle. This conversation was not recorded. § 87(2)(b) spoke to PO Delaney, who told § 87(2)(b) that his complaint was a relatively minor issue. PO Delaney told § 87(2)(b) to “leave PO Pina and PO DeVito alone,” “mind [his] own business” and “shut up.” § 87(2)(b) told PO Delaney that he was going to travel to the stationhouse in person to file a complaint both against PO Pina and PO DeVito for their improper parking, and against PO Delaney for being rude.

PO Delaney was interviewed at the CCRB on September 27, 2016 (See Board Review #14: PO Delaney’s Statement). PO Delaney recalled § 87(2)(b) speaking to him over the telephone to complain about the manner in which several officers had parked a police vehicle. § 87(2)(b) was highly agitated, and was yelling and cursing over the phone. PO Delaney did not believe that § 87(2)(b) s account constituted a formal complaint against a police officer, as § 87(2)(b) was not accusing the officers of any criminal activity or improper conduct. He told § 87(2)(b) that no action would be taken in regards to the issue. PO Delaney made this determination himself without consulting any other officers, including supervisors. He then ended the call.

NYPD Patrol Guide procedure 207-31 states that civilians may make complaints against uniformed members of the service at any police precinct. Complaints may be filed via telephone or in-person. When a civilian files a complaint via telephone, the officer receiving the complaint must prepare a civilian complaint report based upon the information received. The report must then be forwarded to the CCRB Intake Unit (See Board Review #15: Legal Reference).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague threatened to arrest § 87(2)(b)

§ 87(2)(b) was recording on his cell phone when he approached the front desk, where he spoke to PO Oyague, PO Delaney, PO Raymond Welsh and Sgt. William Hall. This interaction was recorded in § 87(2)(b) s second video (See Board Review #5: SnagIt Capture #1).

As shown on the video, Sgt. Hall, PO Welsh and PO Oyague told § 87(2)(b) that he could not record at the front desk area, but that he could speak to the officers outside. § 87(2)(b) asked the officers why he could not record at the desk. Sgt. Hall responded, “Safety reasons.” PO Oyague then told § 87(2)(b) “Record all you want, step outside.” When § 87(2)(b) hesitated, PO Oyague stated, “If you don’t step outside, you’ll be collared. Your choice.” § 87(2)(b) asked, “What’s ‘collared?’” PO Oyague replied. “Arrested. Just step outside, we’ll talk to you there. Record all you want.” § 87(2)(b) then returned to the waiting area. He was not arrested, and no further

objections were made to his use of a recording device. § 87(2)(b)'s account of this interaction was consistent with the video footage.

PO Oyague was interviewed at the CCRB on August 11, 2016 (See Board Review #16: PO Oyague's Statement). He confirmed that he threatened to arrest § 87(2)(b). He explained that civilians are not allowed to bring recording devices to the front desk, as there are sensitive and confidential police department documents kept at the desk. Had § 87(2)(b) not ultimately complied with the officers' instructions and moved into the waiting area, PO Oyague would have placed § 87(2)(b) under arrest for either disorderly conduct or obstructing governmental administration. He did not know which specific disorderly conduct sub-section would have applied to § 87(2)(b)'s actions.

PO Delaney's account of § 87(2)(b)'s arrival at the stationhouse differed significantly from all other accounts. He did not recall § 87(2)(b) entering the front desk area, and instead stated that § 87(2)(b) attempted to photograph documents on the front desk by reaching into a small slot in a window adjoining the waiting area. He was not aware of any officer threatening to arrest § 87(2)(b). When shown video of § 87(2)(b)'s interaction at the front desk, PO Delaney stated that he had no recollection of the conversation shown in the video. He stated that § 87(2)(b)'s attempt to reach through the slot must have occurred at a different point during § 87(2)(b)'s visit to the stationhouse. When asked if § 87(2)(b) was guilty of committing any crimes at the time of PO Oyague's threat, PO Delaney stated that § 87(2)(b) was trespassing by approaching the front desk, as civilians do not have free access to that area of the stationhouse.

Sgt. Hall was interviewed at the CCRB on October 7, 2016 (See Board Review #17: Sgt. Hall's Statement). Sgt. Hall had no independent recollection of the incident. While he did not know if it was expressly forbidden for civilians to record inside of a police building, he noted that it would likely violated the privacy of other civilians attempting to report crimes, as well as prisoners brought into the stationhouse. When he reviewed § 87(2)(b)'s footage, Sgt. Hall identified himself as the officer who told § 87(2)(b) that he could not record at the front desk for "safety reasons." While Sgt. Hall still did not recall the incident after viewing the video, he noted since § 87(2)(b) had been asked to leave by officers, he would have been guilty of criminal trespass if he remained at the front desk.

New York State Penal Law §140.10 states that an individual who knowingly enters or remains unlawfully in a building which is fenced or otherwise enclosed in a manner designed to exclude intruders is guilty of criminal trespass in the third degree (See Board Review #18: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation C -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague did not process § 87(2)(b)'s complaint regarding officers.

After PO Oyague asked § 87(2)(b) to step into the waiting area, PO Oyague and PO Delaney followed him to the waiting area to speak to him. § 87(2)(b) recorded this interaction in his second video (See Board Review #6: SnagIt Capture #2).

As shown on the video, when PO Oyague asked § 87(2)(b) why he was there, § 87(2)(b) asked to speak to a supervisor. PO Oyague replied, "You got me. What's up?" § 87(2)(b) asked, "Can I get a complaint form?" PO Oyague asked what he wanted the form for. § 87(2)(b) told PO Oyague several times that he did not want to speak to him, and would rather discuss the complaint with a supervisor. Each time, PO Oyague replied that he was not going to notify a supervisor. § 87(2)(b) then asked PO Oyague once again for a "complaint form." PO Oyague asked, "For what? You want to make a CCRB?" § 87(2)(b) replied, "I want to file a complaint." PO Oyague asked, "Against who?" § 87(2)(b) did not respond to this question, instead stating, "I'd rather just have the form." PO Oyague told him, "You cannot have the form. That's for me to fill out, not you."

§ 87(2)(b) objected, stating that he had filled out such reports himself in the past. PO Oyague then asked if the complaint was against him. § 87(2)(b) stated that the complaint was not against PO Oyague. PO Oyague told § 87(2)(b) that he had not filed such a complaint in the past, stating that if he wanted to file a complaint against a police officer, he would have to call the CCRB. § 87(2)(b) replied, "No I don't. I can just come here and get a form." PO Oyague stated, "There's no form here."

When § 87(2)(b) insisted again on getting a form, PO Oyague stated, "There is no complaint to fill out." § 87(2)(b) asked PO Oyague, "So you are denying me a form?" PO Oyague asked § 87(2)(b) "What complaint do you want to fill out?" PO Oyague again asked who the complaint was against. PO Delaney then stated, "You have to tell us who you want to file a complaint against." When § 87(2)(b) refused to provide details about the complaint, PO Oyague told § 87(2)(b) again that § 87(2)(b) could not fill out the form, and that only he himself could complete the form. § 87(2)(b) asked PO Oyague several more times for the form, but PO Oyague again refused to give it. PO Delaney then stated, "We don't give out forms for no reason. We have to know why we're giving out a form. What type of form." The video then ends.

§ 87(2)(b)'s testimony is generally consistent with the videos. He further stated that after the video ended, he continued to speak to PO Oyague and PO Delaney for several more minutes. He continued to request to speak to a supervisor, but PO Oyague and PO Delaney still refused to summon a supervisor. Eventually, the officers moved to walk away. The end of this interaction was recorded at the start of § 87(2)(b)'s third video (See Board Review #7: SnagIt Capture #3). His conversation with the two officers continued between the two videos. § 87(2)(b) was never given a civilian complaint report, and never spoke to a supervisor.

PO Oyague stated that before § 87(2)(b) arrived, PO Delaney told him that he had spoken to a civilian over the phone who was complaining about a police vehicle that was assigned to a shooting post. PO Oyague did not know the identity of the civilian that spoke to PO Delaney. He was not aware that it was § 87(2)(b) who called the stationhouse at any time before the incident. When § 87(2)(b) arrived, PO Oyague admitted him into the front desk room briefly. He then asked § 87(2)(b) to move into the waiting area to speak there.

PO Oyague stated that at this point in the interaction, he did not know if § 87(2)(b) wanted to file a criminal complaint against a civilian, or a formal complaint against an officer. He explained that criminal complaints are filed via UF-61 reports, which are filled out by police officers. Individuals filing complaints against officers are referred to the CCRB. PO Oyague is not aware of any forms that civilians can prepare at the stationhouse in order to file complaints against officers. He also stated that officers of his rank are not allowed to take these complaints. Without a clear idea of which kind of complaint § 87(2)(b) wanted to file, PO Oyague did not know which procedure to follow.

After several minutes, § 87(2)(b) eventually told PO Oyague that his complaint was against a police officer. With § 87(2)(b)'s intentions clear, PO Oyague told § 87(2)(b) to take a seat in the waiting area while he notified a supervisor. PO Oyague then spoke to a supervisor behind the front desk to inform him of § 87(2)(b)'s issue. PO Oyague did not recall who he spoke to. PO Oyague remained behind the front desk after he spoke to the supervisor. § 87(2)(b) remained in the waiting area. Over the next few minutes, PO Oyague observed § 87(2)(b) try unsuccessfully to flag down several unidentified officers who walked by him. Eventually, the unidentified supervisor ordered PO Oyague to remove § 87(2)(b) from the stationhouse for being "disorderly." PO Oyague went out into the waiting area and escorted § 87(2)(b) outside. § 87(2)(b) returned to the stationhouse again several minutes later, but this time sat quietly in the waiting area without speaking to anybody. PO Oyague did not recall how long § 87(2)(b) remained there. He had no further interaction with § 87(2)(b).

PO Oyague was shown § 87(2)(b)'s video of the interaction. When shown at 2:04 on the recording that he specifically asked § 87(2)(b) if he was filing a CCRB complaint well before § 87(2)(b) stated aloud that his complaint was against an officer, PO Oyague stated that he did not recall why he asked that question. PO Oyague was then shown the section at 3:05 where he told § 87(2)(b) that he could not have a copy of an unspecified form because only officers can fill it out. PO Oyague explained that he was referring to a UF-61 report.

PO Oyague was then shown the end of § 87(2)(b)'s second video at 3:37 and the start of the third video. PO Oyague was unable to tell how much time passed between the two videos. He confirmed that when he walked away at the start of the third video (shown at 0:10 on the recording), this was when he went to speak to a supervisor. It was then pointed out to PO Oyague that he did not actually leave the room or speak to any other officers between that point and when he escorted § 87(2)(b) out of the waiting area (shown at 1:50 on the recording). When asked when he spoke to the supervisor as he alleged, PO Oyague stated that he might have instead left § 87(2)(b)'s presence at some point between the two videos. He then stated that he had no explicit memory of speaking to a supervisor about § 87(2)(b)'s complaint.

Sgt. Hall had no independent recollection of the incident. At the time of the incident, he was the 75th Precinct desk officer. Sgt. Hall recognized himself in § 87(2)(b)'s recording of the interaction at the front desk, but did not recall the interaction himself. Sgt. Hall explained that civilian complaints against officers are referred directly to supervisors such as himself, who then provide the complainant with a written report to complete in his or her own hand. Sgt. Hall did not recall any officer referring any such complaints to him at the time.

As mentioned earlier, NYPD Patrol Guide procedure 207-31 states that civilians may make complaints against uniformed members of the service at any police precinct. Complaints may be filed via telephone or in-person. When a civilian files a complaint in-person, the officer receiving the complaint must furnish them with a civilian complaint report to be filled out in their own handwriting. Officers are not required to refer the complaining civilian to a supervisor before taking the complaint (See Board Review #15: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation D -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Robert Delaney did not process § 87(2)(b)'s complaint regarding officers.

It is undisputed that PO Delaney accompanied PO Oyague to the waiting area when he went to speak to § 87(2)(b). § 87(2)(b)'s video shows him standing alongside PO Oyague in the waiting area. He is silent for most of the second video, but at 3:30 on the recording, he tells § 87(2)(b) "We don't give out forms for no reason. We have to know why we're giving out a form. What type of form." He is seen at the start of the second video, but departs at 0:10 on the recording. He does not return to the waiting area, and is not seen again on the video. § 87(2)(b)'s account of PO Delaney's actions during this interaction is generally consistent with his videos.

PO Delaney stated that before the conversation seen in § 87(2)(b)'s videos, he had approached § 87(2)(b) on his own to find out why he had come to the stationhouse. § 87(2)(b) did not record this interaction. PO Delaney immediately recognized § 87(2)(b)'s voice from their earlier telephone conversation about PO DeVito and PO Pina. § 87(2)(b) was shouting and cursing in the waiting room, and was demanding to file "a report." § 87(2)(b) then reiterated his complaint regarding officers parking their vehicles improperly. PO Delaney told § 87(2)(b) again that his

issue with the officers did not constitute a complaint. He then referred § 87(2)(b) to a poster on the wall showing the CCRB's contact information should he wish to pursue the matter further. When § 87(2)(b) insisted on filing a report himself, PO Delaney told him that he was acting in a disorderly manner, and needed to leave the stationhouse. § 87(2)(b) complied with this order.

Several minutes later, § 87(2)(b) returned to the stationhouse and again stated that he wanted to file a report. PO Delaney and PO Oyague spoke to him in the waiting area. § 87(2)(b) did record this conversation. Both officers warned § 87(2)(b) that he was acting disorderly and was trespassing at the stationhouse, and that he might be arrested as a result. § 87(2)(b) at first replied by shouting, "Fuck you, I want to file a report." After the officers threatened § 87(2)(b) several more times, he left the stationhouse. PO Delaney had no further interaction with § 87(2)(b). PO Delaney did not refer § 87(2)(b)'s complaint to any other officers. He was not aware of any paperwork that § 87(2)(b) could have filed at the stationhouse to file a complaint against a police officer. He was not aware of any officer escorting § 87(2)(b) out of the stationhouse.

PO Delaney was shown § 87(2)(b)'s videos of the incident. He did not know if he and PO Oyague spoke to § 87(2)(b) continuously between the end of the second video and the start of the third. After viewing the conversation between himself, PO Oyague and § 87(2)(b) in the second video, PO Delaney stated that he did not know what kind of form § 87(2)(b) was requesting from them. He explained that different types of forms would be required for complaints against officers, as opposed to complaints against civilians. PO Delaney did not consider § 87(2)(b)'s complaint about the officers' parking to constitute a complaint against a police officer.

§ 87(2)(g)

Allegation E -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer David Oyague threatened to arrest § 87(2)(b)

§ 87(2)(b) was recording on his cell phone during his conversation with PO Oyague and PO Delaney in the waiting area. This interaction was recorded in § 87(2)(b)'s second video (See Board Review #6: SnagIt Capture #2). As shown in the video, § 87(2)(b) spoke in a normal tone of voice throughout the video. He did not use profanity at any point. No other civilians are seen in the waiting area at that time. As discussed above, § 87(2)(b) asked PO Oyague several times both to fill out a complaint report, and to speak to a supervisor. PO Oyague did not comply with any of these requests. PO Oyague then told § 87(2)(b) "Either you make this difficult, or you make it easy. Which one you want to do?" § 87(2)(b) replied, "We can do difficult. I really don't know what 'difficult' means." PO Oyague explained, "Difficult means you go in handcuffs. You go in the cells." § 87(2)(b) asked, "For what crime?" PO Oyague stated, "You're being disorderly."

Despite this warning, PO Oyague continued to speak to § 87(2)(b) for several more minutes. § 87(2)(b) was not ultimately arrested. He was not told to leave at any time. § 87(2)(b)'s account of this interaction is generally consistent with the video.

PO Oyague did not recall threatening to arrest § 87(2)(b) for being disorderly. While he recalled telling § 87(2)(b) earlier in the incident that he might be arrested if he did not stop recording by the front desk, he did not recall telling § 87(2)(b) that he might be arrested at any other point during the incident. PO Oyague described § 87(2)(b)'s behavior during the incident as “belligerent” and “annoyed.” He did not recall if § 87(2)(b) raised his voice at any time.

PO Oyague stated that he left the waiting area to inform an unidentified supervisor of § 87(2)(b)'s complaint. PO Oyague then observed § 87(2)(b) from the front desk area for several minutes while he remained inside of the waiting area. During this time § 87(2)(b) tried to flag down several officers. Several other civilians were sitting in the waiting area at that time. These civilians looked over towards PO Oyague in the front desk and gave panicked looks to him. PO Oyague interpreted this to mean that § 87(2)(b)'s actions were creating undue alarm in the other civilians. After several minutes, the unidentified supervisor stated that this behavior by § 87(2)(b) was “disorderly,” and ordered PO Oyague to escort § 87(2)(b) out of the stationhouse. PO Oyague then did so. § 87(2)(b) was not arrested, or told that he might be arrested.

When PO Oyague was shown the section of § 87(2)(b)'s second video at 3:22, where he is heard threatening § 87(2)(b) he stated that he recalled considering issuing § 87(2)(b) a summons for disorderly conduct due to the alarm his actions caused to other civilians in the waiting area who could not be seen in the video. He did not recall telling § 87(2)(b) that he might be arrested.

New York State Penal Law §240.20 states that an individual is guilty of disorderly conduct when he or she makes unreasonable noise, uses obscene language, or congregates with other persons in a public place in defiance of a lawful order to disperse (See Board Review #19: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation F -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Anthony Lee did not process § 87(2)(b)'s complaint regarding officers.

After his initial interaction with PO Oyague, § 87(2)(b) flagged down PO Lee. § 87(2)(b)'s interaction with PO Lee was recorded in his third video (See Board Review #8: SnagIt Capture #3).

The video shows that upon approach, § 87(2)(b) told PO Lee, "I was trying to file a complaint, these two officers basically trying to stop me from filing a complaint, saying I gotta call some other weird number when I've come in plenty of times and filed a complaint in a station." PO Lee told § 87(2)(b) that he could file the complaint via telephone, but § 87(2)(b) insisted that he wanted to file the complaint in-person at the stationhouse. PO Lee told § 87(2)(b) that PO Oyague, who was standing nearby, could not take the complaint himself, stating, "We as cops don't take complaints. The boss takes complaints, alright?" § 87(2)(b) protested, stating, "He refuses to bring the supervisor out." § 87(2)(b) then started to argue with PO Oyague, complaining that PO Oyague refused to even notify a supervisor of his presence. PO Oyague then removed § 87(2)(b) from the stationhouse. § 87(2)(b)'s account of this interaction is generally consistent with the video.

PO Lee was interviewed at the CCRB on September 22, 2016 (See Board Review #20: PO Lee's Statement). He stated that § 87(2)(b) first flagged him down as he was returning to the stationhouse after going on patrol. § 87(2)(b) was already speaking to PO Oyague at the time. When § 87(2)(b) told him that he wanted to file a complaint against an officer, PO Lee told him that he could either file the complaint over the phone, or file it directly with a supervisor. He did not recall § 87(2)(b) offering any objections, including demanding to file the complaint at the stationhouse, or asking any officers to notify a supervisor of his complaint. PO Lee then left § 87(2)(b) to resolve the issue with PO Oyague. He estimated that the interaction lasted for about two minutes. PO Lee made no effort to record § 87(2)(b)'s complaint after their interaction because he felt that PO Oyague was already addressing the complaint.

PO Lee did not recall PO Oyague removing § 87(2)(b) from the stationhouse. When shown the section of the third video between 0:45, when § 87(2)(b) insisted on filing his complaint at the stationhouse, and 1:50, when PO Oyague removed § 87(2)(b) from the stationhouse, PO Lee stated that he did not have an independent recollection of these events.

As noted above, officers receiving a complaint in person from a civilian against an officer must provide the civilian with a copy of a civilian complaint report. § 87(2)(g)

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Allegation G -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Steven Owens did not process § 87(2)(b)'s complaint regarding officers.

After PO Oyague removed § 87(2)(b) from the stationhouse, § 87(2)(b) waved down PO Owens. Their interaction was recorded in § 87(2)(b)'s third video at 2:55 (See Board Review #8: SnagIt Capture #4).

As shown in the video, when he approached PO Owens, § 87(2)(b) stated, "I was just assaulted by one of the cops, who actually pushed me outside. I came to file a complaint against an officer. He actually pushed me outside. I was waiting to see a supervisor. He threatened me arrest if I came back inside a public precinct." § 87(2)(b) then told PO Owens, "I want to file a complaint for assault, and I want to actually see a supervisor. Nobody there is making the supervisor come out, I've asked ten times to see the supervisor to the point where the officer actually put his hands physically on me, so I would like to file a complaint against him." PO Owens replied, "Yo, you can file a complaint." § 87(2)(b) then walked back into the waiting room and told him that other officers had told him to file the complaint over the telephone, but that he wanted to fill out a civilian complaint report himself. PO Owens replied, "Alright, do what you have to do then." PO Owens then walked into the front desk room, leaving § 87(2)(b) in the waiting area. § 87(2)(b)'s account of this interaction is generally consistent with his video.

PO Owens was interviewed at the CCRB on October 14, 2016 (See Board Review #21: PO Owens' Statement). PO Owens stated that the general procedure for dealing with civilian complaints at the stationhouse is to first refer them to the CCRB's telephone number, which is posted in the waiting area, and then to give them a copy of the civilian complaint report if they do not want to file the complaint by telephone. PO Owens did not recall § 87(2)(b) asking any further questions after he directed § 87(2)(b) to a poster showing the CCRB's contact information. He did not recall § 87(2)(b) asking for a civilian complaint report. PO Owens did not inform any other officers, including any supervisors, of § 87(2)(b)'s complaint. When shown the section of § 87(2)(b)'s third video at 3:43, in which § 87(2)(b) asks for a report to fill out, PO Owens stated that he did not recall that interaction. PO Owens did not know why he did not obtain the report for § 87(2)(b) at that time.

§ 87(2)(g)

Allegation H -Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Matthew Drury did not process § 87(2)(b)'s complaint regarding officers.

After § 87(2)(b) spoke to PO Owens in the waiting area, § 87(2)(b) flagged down PO Drury as he left the front desk room. This interaction was recorded in § 87(2)(b)'s third video at 5:04 (See Board Review #9: SnagIt Capture #5).

§ 87(2)(b) told PO Drury that an officer he spoke to earlier "assaulted" him and pushed him outside. He then told PO Drury that he wanted to file a "complaint of assault" against the officer,

and that he wanted to speak to a supervisor. PO Drury told § 87(2)(b) “You’re going to have to have a seat right now. Supervisor’s not at his desk right now.” He then walked back into the front desk room. PO Drury’s subsequent actions were not recorded. § 87(2)(b) did not ultimately speak to a supervisor at the stationhouse.

PO Drury’s employment history indicates that he resigned from the NYPD on September 5, 2016, and is no longer a member of the service (See Board Review #22: PO Drury’s Employment Status). § 87(2)(g)

Allegation I -Abuse of Authority: There is evidence suggesting Police Officer Robert Delaney provided a false official statement in violation of NYPD Patrol Guide procedure 203-08, which the CCRB referred to IAB on November 22, 2016, generating IAB log number 2016-41417.

The CCRB found evidence suggesting that PO Delaney provided a false official statement regarding the incident. A spin-off was generated to IAB in regards, under CCRB case #201609641 on November 22, 2016, generating IAB log #2016-41417. The evidence is as follows:

In his sworn testimony, PO Delaney stated that when § 87(2)(b) spoke to him and PO Oyague in the stationhouse’s waiting area, he asked them for a form in order to file a complaint against an unspecified party. PO Delaney did not know whether the complaint § 87(2)(b) wished to file was against a civilian or against a police officer. As a result of this confusion, PO Delaney did not know what kind of form § 87(2)(b) was requesting.

This claim was contradicted by PO Delaney’s earlier testimony, in which he stated that § 87(2)(b) told him both over the phone that he wanted to file a complaint against officers parking improperly. When § 87(2)(b) appeared in-person at the stationhouse, PO Delaney recognized his voice from their earlier phone conversation. PO Delaney also stated that before he and PO Oyague approached § 87(2)(b) in the waiting area, he had had a separate interaction in the waiting area, during which § 87(2)(b) reiterated his desire to complain about PO DeVito and PO Pina.

NYPD Patrol Guide procedure 203-08 states that an officer is prohibited from making a false official statement, and that an officer found to have made one will be subject to disciplinary action. In order to be considered misconduct, the statement must be proven to have been made, material, and intentionally false. Department of Corrections v. Centeno, OATH Index 2031-04 (2005) (See Board Review #23-24: Legal Reference).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Allegation J -Abuse of Authority: There is evidence suggesting Police Officer David Oyague provided a false official statement in violation of NYPD Patrol Guide procedure 203-08, which the CCRB referred to IAB on November 22, 2016, generating IAB log number 2016-41417.

The CCRB found evidence suggesting that PO Oyague provided a false official statement regarding the incident. A spin-off was generated to IAB in regards, under CCRB case #201609641 on November 22, 2016, generating IAB log #2016-41417. The evidence is as follows:

In his sworn testimony, PO Oyague stated that when § 87(2)(b) spoke to him and PO Delaney in the stationhouse's waiting area, he asked them for a form in order to file a complaint against an unspecified party. PO Oyague did not know whether the complaint § 87(2)(b) wished to file was against a civilian or against a police officer. As a result of this confusion, PO Oyague did not know what kind of form § 87(2)(b) was requesting.

PO Oyague also stated that after § 87(2)(b) finally communicated that his complaint was against an officer, he left the waiting area for several minutes, during which time he informed a supervisor of § 87(2)(b)'s complaint. He did not recall the name of this supervisor. He also stated that this supervisor later told him that § 87(2)(b) was acting in a disorderly manner, and instructed PO Oyague to walk § 87(2)(b) out of the stationhouse. PO Oyague then returned to the waiting area and did so. Sgt. Hall, PO Oyague's immediate supervisor, did not recall being informed of § 87(2)(b)'s complaint by any officers.

The beginning of § 87(2)(b)'s third video shows PO Oyague briefly walking away from § 87(2)(b) at 0:10 and leaving him in the waiting area. When shown this section of the video, PO Oyague identified this as the point during the incident where he spoke to a supervisor. The video also showed, however, that PO Oyague did not actually leave the room at that time. He instead waited in the hallway for several moments before walking back towards § 87(2)(b) at 0:25. PO Oyague remained there until 1:50, when he escorted § 87(2)(b) out of the stationhouse. PO Oyague is not seen leaving the waiting area at any other point during any of the videos. PO Oyague is not shown being told by any other officer to escort § 87(2)(b) from the stationhouse before he does so. After he reviewed this footage, PO Oyague was asked when the alleged conversation with his supervisor took place. PO Oyague stated that he did not recall, and that it may have taken place at some point between the two videos. He then stated that he did not have an explicit recollection of speaking to a supervisor during the incident.

NYPD Patrol Guide procedure 203-08 states that an officer is prohibited from making a false official statement, and that an officer found to have made one will be subject to disciplinary action. In order to be considered misconduct, the statement must be proven to have been made, material, and intentionally false. Department of Corrections v. Centeno, OATH Index 2031-04 (2005) (See Board Review #23-24: Legal Reference).

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§ 87(2)(g) [Redacted]
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§ 87(2)(g) [Redacted]
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Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

201605625

Robert Delaney

David Oyague

A man wishing to file a CCRB complaint against officers in the 75th Precinct went into the precinct itself. There he spoke with PO Delaney and PO Oyague; the man recorded the majority of their interaction on his cell phone. Both officers told the man they could not give him a CCRB form, and that if he wanted to file a CCRB complaint he had to call the agency or go to the CCRB.

This is not accurate – each precinct is required to have complaint forms on hand for civilians to fill out, and the 75th precinct had such forms on hand during the time of the incident. In addition, PO Delaney stated that the man had been cursing and acting disorderly, which was contradicted by the video. PO Oyague, who escorted the man out of the precinct, stated that he had been instructed to do so by a supervisor, but the video showed no evidence of that and the supervisor on the scene stated he was not involved in the incident.

The CCRB substantiated allegations of failure to take a complaint against each officer and found that each lied in their statement to the agency.

The NYPD provided the officers with formalized training and command discipline A for refusal to process the civilian complaint but did not punish them for the false statement.

The CCRB allegation pertaining to the false statement was listed only as “other misconduct” in a later letter from the district attorney regarding PO Delaney and as a CCRB finding of “false official statement” for PO Oyague.

Interview Details

On June 29, 2016, [REDACTED] was interviewed at the CCRB. [REDACTED] years old at the time of the incident, is a 5'6", 160-pound black male with black hair and brown eyes. He is currently employed as [REDACTED]. [REDACTED] recorded parts of the incident, and played the recordings during the interview. He also provided copies of each video at the end of his interview.

At approximately 4:30 p.m. on May 21, 2016, [REDACTED] exited a store near the intersection of [REDACTED] and [REDACTED] in Brooklyn. He observed a marked sedan parked on the side of the road, near a fire hydrant. Two uniformed officers were sitting inside. The sedan was parked the wrong way, with its front pointing into the flow of traffic. [REDACTED] felt that the vehicle was parked improperly, and that it might endanger oncoming traffic if it pulled out of its spot. [REDACTED] approached the vehicle and spoke to the two officers inside, PO Pina and PO DeVito. [REDACTED] recorded this interaction, and showed the video during the interview. [REDACTED] spoke to PO Pina, who was in the driver's seat, explaining his concerns over their position. PO Pina told him that they had been instructed to park in that position by the "commanding officer," and told [REDACTED] that if he wished to speak to somebody about the matter, he would have to call the 75th Precinct stationhouse directly. [REDACTED] asked the officers for their names and shield numbers, which they provided. He then walked away. [REDACTED] had no further interaction with these two officers on that day.

About ten minutes later, [REDACTED] called the 75th Precinct stationhouse directly to complain about the marked sedan. He was connected to an officer whom he later identified as PO Delaney. [REDACTED] did not record this conversation. [REDACTED] explained his complaint about the marked sedan to PO Delaney. PO Delaney asked [REDACTED] why he was complaining about such a minor issue. When [REDACTED] reiterated his complaint, PO Delaney told him to "leave them alone," "mind [his] own business" and to "shut up." Realizing that PO Delaney would not address his complaint over the phone, [REDACTED] told PO Delaney that he was going to go to the stationhouse directly to file a complaint against PO Pina and PO DeVito for their parking, as well as against PO Delaney for his rude behavior. He then asked PO Delaney for his name and shield number. PO Delaney initially declined to provide this information, but when [REDACTED] repeated his request, PO Delaney provided his name and shield number.

At about 6:00 p.m., [REDACTED] traveled to the stationhouse by himself to file a complaint against the three officers. Directly inside of the stationhouse's entrance is a waiting room. The waiting room is separated from the front desk by a set of doors with glass windows. [REDACTED] explained that you must wait outside of the doors and be waved into the room by an officer before approaching the front desk. [REDACTED] began recording on his cell phone once he entered the waiting room. [REDACTED] played the video showing his interaction with PO Oyague during his interview. [REDACTED] waited outside of the door for about forty seconds before he was waved in. He approached the desk, where he spoke to PO Oyague and another officer, PO1, whose name he did not learn. Both officers were in uniform. PO1 immediately told him to turn his phone off and put it in his pocket. [REDACTED] informed him that he was recording. PO1 then told him to "step outside," and that he would speak to him there. [REDACTED] asked if he was forbidden from recording inside. PO1 stated, "No, I'll talk to you outside." [REDACTED] objected, stating that he should be allowed to record inside. PO Oyague then told him, "If you don't step outside, you're going to be collared. Your choice." [REDACTED] asked, "What's 'collared?'" PO Oyague replied, "Arrested. Just step outside, we'll talk out there, all you want."

[REDACTED] then walked back into the waiting room. PO Oyague approached [REDACTED] and asked what his problem is. He was accompanied by another officer. When [REDACTED] read this officer's nameplate, he saw that it was PO Delaney, whom he had spoken to on the phone. [REDACTED] asked to speak to a supervisor. PO Oyague, however, stated that [REDACTED] would have to speak to him. [REDACTED] asked for a form to file a civilian complaint against a supervisor. PO Oyague asked what he wanted to file a complaint about. [REDACTED] not wanting to speak to PO Oyague about the complaint, asked to speak to a supervisor. PO Oyague stated that he would not get a supervisor, and that [REDACTED] had to speak to him. PO Oyague asked him who [REDACTED] was filing the complaint against. He stated that [REDACTED] would not be allowed to fill out the form, and that PO Oyague would fill it out for him. [REDACTED] stated that he had filed complaints at the stationhouse in the past, and had been able to complete the form himself. PO Oyague then told him that if he wants to file a complaint against an officer, he would have to call the CCRB. [REDACTED] stated that he should be able to file the complaint at the stationhouse, but PO Oyague again asked him who the complaint was against. PO Delaney also stated that he would not be given a form. PO Oyague then asked, "Either you make this difficult, or you make it easy, which one you want to do?" [REDACTED] replied, "We can do difficult. I really don't know what difficult means." PO Oyague replied, "Difficult means you go in handcuffs, go in the cells." [REDACTED] asked, "For what crime?"

Interview Details

PO Oyague stated, "For being disorderly." [REDACTED] asked again for a form, but PO Delaney replied that they needed to know what kind of form he wanted.

The second video ended after this point. [REDACTED] stated that after the video ended, he continued arguing with these officers for several more minutes. Several other officers walked through the waiting room during this period. [REDACTED] asked several of these officers to get a supervisor, but PO Oyague told these officers not to speak to [REDACTED]. [REDACTED] did know the names of these officers. He described only one of them, PO2. None of these officers assisted [REDACTED].

[REDACTED] started recording a third video about two or three minutes after the end of the second video. He played the video during his interview. PO Oyague left [REDACTED] in the waiting room and walked away. He warned [REDACTED] not to block the door to the front desk. Another black male officer, PO3, walked by. [REDACTED] asked him for assistance in getting a complaint report. When he saw [REDACTED] speak to this officer, however, PO Oyague walked back towards him. PO3 told [REDACTED] that he can file his complaint over the phone. When [REDACTED] replied that he wants a form to file a complaint against an officer, PO3 told him that complaint forms are not given out to civilians, and that only supervisors can fill out the reports. [REDACTED] complained that PO Oyague did not relay his complaint to a supervisor. PO Oyague replied that he did not have to inform a supervisor. He then walked up to [REDACTED]. [REDACTED] stepped back, telling PO Oyague to stay back. PO Oyague then told [REDACTED] "Get out." He placed his hand on [REDACTED] chest and starts walking forwards, pushing [REDACTED] backwards, through the front doors onto the sidewalk. PO Oyague told [REDACTED] to wait outside. [REDACTED] told PO Oyague that he was assaulting him. PO Oyague replied that he was not. Once [REDACTED] was outside, PO Oyague went back inside.

[REDACTED] waited outside of the stationhouse. A plainclothes officer, PO4, wearing business attire walked by and entered the stationhouse. [REDACTED] asked PO4 if he was an officer at the precinct. PO4 identified himself as a detective, but stated that he could not speak to [REDACTED] as he was assisting a family that had recently lost a loved one. [REDACTED] allowed PO4 to enter the stationhouse without any further questions. He then saw another uniformed officer, PO5, walking into the stationhouse. [REDACTED] told PO5 that he had been "assaulted" by an officer when he tried to file a complaint, and that the officer had threatened to arrest him. PO5 replied that he didn't know what happened between them, and asked if [REDACTED] had been disorderly. [REDACTED] replied that he hadn't. PO5 told him that he could stay in the waiting room if he wanted to file a complaint. [REDACTED] asked PO5 to get a supervisor. PO5 replied, "You do what you got to do." He then walked into the room with the front desk, leaving [REDACTED] in the waiting room.

[REDACTED] stayed in the waiting room for several more minutes while recording. He knocked on the window on the desk doors, but received no response. A female civilian then walked up to the window and asked to be let in. An officer inside waved her in. [REDACTED] remained outside. Another officer, PO6, then walked out of the front desk area. [REDACTED] told him that the officer that he had been speaking to earlier had assaulted him and pushed him outside. He also stated that that officer had not notified a supervisor. PO6 told him that the supervisor was away from the desk at the moment, and that he could take a seat in the waiting room until the supervisor returned. [REDACTED] stopped recording his third video at that time. He did not record again, but did use his camera to take a picture of several officers with white-shirted uniforms that he saw sitting behind the desk.

Several minutes later, a plainclothes officer, PO7, walked into the stationhouse and headed towards the front desk. [REDACTED] asked PO7 if he was a supervisor. When PO7 told him that he was a supervisor, [REDACTED] told him that he had video of an officer assaulting him. PO7 told him to keep waiting. He then walked into the front desk area. PO7 did not return again.

About twenty minutes after the end of the third video, another uniformed officer, whose nameplate he read as PO McHale, came out. He stood quietly in the waiting room for several minutes, watching [REDACTED]. He then approached [REDACTED] and started asking him questions about himself, including his name, address and place of employment. He also asked [REDACTED] if he had problems with "issues with cops." [REDACTED] feeling that PO McHale was prying unnecessarily, refused to answer any of his questions. PO McHale then left. [REDACTED] continued waiting for about an hour and a half. During that time, no further officers spoke to [REDACTED]. Eventually, he gave up on trying to file the complaint and left the stationhouse. He was not arrested or issued a summons. He did not ultimately file a complaint at the stationhouse.

PO Pina: Hispanic male, 5'9", heavyset, black hair, uniform, shield #20488
PO DeVito: White male, 5'9", heavyset, black hair, uniform, shield #20108

Interview Details

PO Oyague: White male, 5'9", athletic build, bald, [REDACTED] years old, uniform, shield #8107

PO1: Black male, 5'10", athletic build, bald, uniform

PO2: Black male, 5'10", heavyset, low-cut hair, 20s, uniform

PO3: Black male, 5'6", slim build, receding hairline, [REDACTED] uniform

PO4: Male, plainclothes, business attire

PO5: Black male, 6', 200 pounds, low-cut hair, 30s, uniform

PO6: White male, black hair, 30s

PO7: White male, 5'10", heavyset, late 30s, plainclothes

PO McHale: Hispanic male, 5'10", 170 pounds, black hair, uniform, shield #17625

Interview Details

On August 11, 2016, PO David Oyague was interviewed at the CCRB as a subject officer. PO Oyague, [REDACTED] years old at the time of the incident, is a 5'10", 190-pound white male. He has a shaved head, and has brown eyes.

On May 21, 2016, PO Oyague worked from 3:00 p.m. until 11:35 p.m. He worked as the 75th Precinct's assistant desk officer. He did not have a partner, and did not recall who the desk officer was. PO Oyague was in uniform, and assigned to the stationhouse.

PO Oyague did not have any memo book entries regarding the incident.

On May 21, 2016, PO Oyague was working behind the front desk at the 75th Precinct stationhouse. PO Oyague described the layout of the entrance of the stationhouse, stating that the building's front doors lead into a civilian waiting room. The civilian waiting room is then separated from the front desk by a set of doors. The doors to the front desk area are not locked, and may be opened freely. Despite this, there are signs on these interior doors stating that the front desk area is for authorized individuals only. The waiting room and the front desk area are separated by several windows. As a result, the waiting room is nicknamed "the fishbowl."

At some time before the incident, the officer assigned to the command's telephone switchboard (TS) informed PO Oyague that somebody had called over the telephone to report a complaint about a police vehicle that was assigned to a shooting post in the precinct. PO Oyague initially did not recall the officer's identity, but after reviewing video footage of the incident was able to identify him as PO Delaney. He did not know the name of the desk officer. PO Oyague did not speak to the person filing this complaint, and did not know who the person was. PO Oyague, as the assistant desk officer, occasionally answered the stationhouse's phone when PO Delaney or the desk sergeant was not available. He denied speaking to the complainant, [REDACTED] over the telephone. He was not aware of [REDACTED] calling the precinct before the incident.

At approximately 6:00 p.m., [REDACTED] entered the stationhouse and knocked on the interior doors. PO Oyague and PO Delaney then waved [REDACTED] into the room. [REDACTED] entered holding a cell phone up in front of his chest. Either PO Oyague or PO Delaney told [REDACTED] to put his cell phone away. [REDACTED] replied that he was recording them. PO Oyague described [REDACTED] demeanor at the time as "belligerent" and "annoyed." He did not recall [REDACTED] raising his voice at the time. One of the officers then told [REDACTED] several times that he was not allowed to record in the vicinity of the front desk. PO Oyague explained that it is forbidden to bring a recording device into that particular area of the stationhouse, as there are confidential police documents containing sensitive information at the front desk. PO Oyague's union representative, Louis Albert, also suggested that it would be improper to record in the area because plainclothes officers, including undercover officers, and the victims of crimes also walk through that part of the building. PO Oyague confirmed that these factors also contribute to the ban on recording at the front desk. Either PO Oyague or PO Delaney told [REDACTED] about three times to stop recording, telling him that he was free to record in the waiting area but could not do so in the front desk area. When [REDACTED] refused for the last time, PO Oyague told him, "If you don't put the phone away, we can arrest you." He then stated that [REDACTED] could step into the waiting room and speak to them there if he wanted to record them. PO Oyague explained that if [REDACTED] had continued to record at the front desk, he would have arrested [REDACTED] for disorderly conduct and obstructing governmental administration. PO Oyague did not know which particular disorderly conduct subsection would apply to the situation.

[REDACTED] then walked back into the civilian waiting room. [REDACTED] walked on his own, and was not forcibly removed or escorted from the front desk. PO Oyague and PO Delaney followed him to the room to find out what he wanted. Since there are no restrictions on recording in the civilian waiting room, PO Oyague allowed [REDACTED] to record their conversation. PO Oyague denied taking any action to prevent [REDACTED] from recording after that point, and was not aware of any other officers doing so. PO Oyague believes that [REDACTED] recorded the entirety of their interaction from beginning to end, without interruption. Several other civilians were seated in the waiting room at the time. PO Oyague did not observe [REDACTED] interact directly with any of these individuals during the incident.

When they met in the waiting room, PO Oyague asked [REDACTED] what he wanted. [REDACTED] stated that he wanted to file a complaint. He did not initially provide any specific details about this complaint, including whether it was a criminal complaint or a civilian complaint. PO Oyague explained that when a civilian enters the stationhouse and asks to file a complaint against an officer, he has been trained to refer the complainant to the CCRB. PO Oyague is not aware of any forms kept at the stationhouse that a civilian can fill out in order to file such a complaint. He also stated that an officer of his rank is not allowed to take complaints against another officer, and that the matter would have to be referred to a supervisor. He then explained that if [REDACTED]

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█████ had wished to file a criminal complaint, he would have obtained a UF-61 complaint report, and filled it out himself. Since █████ did not initially indicate which type of complaint he wished to file, PO Oyague did not know which of these procedures to follow. PO Oyague did not have any suspicion as to which type of complaint █████ was referring to.

PO Oyague asked █████ to explain the nature of his complaint, but █████ refused to do so. █████ then asked to speak to a supervisor instead. PO Oyague, however, wished to learn the details of the incident before bringing the matter to a supervisor, so that he would be able to give all of the relevant information to the supervisor. He was not, however, forbidden from informing the supervisor of █████ issue before learning these details. He denied telling █████ that he was not allowed to speak to a supervisor. PO Oyague asked █████ several more times about the nature of the complaint. For several minutes, █████ refused to provide any information about the complaint, and reiterated his request to speak to a supervisor. █████ demeanor while in the waiting room was the same as it had been in the front desk area. During this exchange, PO Oyague denied that he asked █████ directly if he wanted to file a complaint against a police officer. PO Oyague did not recall if PO Delaney spoke to █████ at that time. He did not recall if PO Anthony Lee was present during this interaction.

PO Oyague did not recall telling █████ “Either you make this difficult, or you make it easy, which one you want to do?” He did not recall █████ asking what he meant by “difficult.” He did not recall telling █████ “Difficult means you go in handcuffs, go in the cells.” He did not recall telling █████ that he would be arrested for being disorderly. Besides telling █████ that he would be arrested if he continued to record by the front desk, PO Oyague did not recall telling █████ that he might be placed under arrest.

After PO Oyague asked █████ several times for details about the complaint, █████ finally stated that he wanted to file a complaint against a police officer. With the nature of the complaint now clarified, PO Oyague referred █████ to a poster in the waiting room that listed the CCRB’s contact information. █████ however, stated again that he wanted to speak to a supervisor, and that he wanted to file a complaint in-person at the stationhouse. PO Oyague then told █████ that he would go speak to a supervisor. PO Oyague invited █████ to take a seat in the waiting room while he spoke to a supervisor. He then returned to the front desk area to speak to a supervisor and inform him of █████ complaint. PO Oyague did not recall which supervisor he spoke to, stating that it was likely the desk officer.

While PO Oyague was in the front desk area, he was able to observe █████ conduct in the waiting area. Several officers walked through the waiting area at that time. PO Oyague did not recall who these officers were, or how many officers walked through in total. PO Oyague saw █████ try to wave down several of these officers to speak to them about his complaint. While PO Oyague did not observe █████ interact with any of the other civilians in the waiting room, he saw several of the civilians look towards himself and other officers at the front desk, giving alarmed looks. PO Oyague interpreted these to mean that the other civilians were alarmed by █████ behavior.

After several minutes, the unidentified supervisor told PO Oyague that █████ was being disorderly, and instructed PO Oyague to remove him from the waiting area. PO Oyague then walked out into the waiting area and told █████ “Leave the precinct.” He did not recall █████ exact response, but recalled that he refused to go. PO Oyague repeated this command several times, but █████ refused to move. PO Oyague then held one of his hands out in front of his chest, with his palm open. He then started walking towards █████ with his palm pointed towards █████ chest. He did not recall if his palm made contact with █████ began walking backwards. PO Oyague moved him towards the stationhouse’s entrance. PO Oyague did not recall if he had to open the door or if the door was already open, but he was able to move █████ through it. He left █████ directly in front of the stationhouse’s front doors. He denied that █████ resisted this action, but stated that █████ repeatedly claimed that PO Oyague was “assaulting” him. PO Oyague denied that he made any further physical contact with █████ beyond possibly touching his chest with his palm. He did not see any other officer make contact with █████ at any time.

After PO Oyague walked █████ out of the stationhouse, he went back inside to the front desk. He did not speak directly to Mr. Oyague after that. Several minutes later, he saw █████ walk back into the building and sit in the waiting room. PO Oyague did not know what, if anything, happened to █████ while he was outside of the stationhouse. When █████ returned, he sat quietly in the room, and did not attempt to flag anybody down. PO Oyague did not recall seeing him speak to any officers after he returned. Since he was no longer flagging people down, no officers took any action to remove him from the

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stationhouse. [REDACTED] continued to sit in the waiting room for an extended period. PO Oyague did not recall how long he was there for, and did not believe that [REDACTED] ultimately spoke to a supervisor or filed a complaint.

PO Oyague was shown two videos of the incident taken by [REDACTED] while at the stationhouse. At the beginning of the first video, PO Oyague identified the room that [REDACTED] is standing in as the waiting room, and the area beyond the windowed doors as the front desk area. At 0:47 on the recording, PO Oyague identified the voice of the person telling [REDACTED] to step outside as belonging to PO Raymond Welsh. At the time of the incident, PO Welsh was ending his scheduled tour and was leaving the stationhouse. PO Oyague did not recognize the voice that told [REDACTED] that he was not able to record there. At 0:53, PO Oyague identified the bald white officer seen standing behind the desk as himself. At 01:03, he identified the white male officer whose head is visible at the edge of the screen as PO Delaney.

At 01:50, [REDACTED] asks PO Oyague in the waiting room to see a supervisor. PO Oyague responds, "You don't got a supervisor, you got me. That's not his job." PO Oyague explained that he made this statement because he needed to ask [REDACTED] for details about his complaint before he summoned a supervisor. At 2:04, PO Oyague asks [REDACTED] if he wanted to file a CCRB. [REDACTED] had not up until that point stated that his complaint was against an officer. PO Oyague did not recall why he asked [REDACTED] at that time if he wanted to file a CCRB complaint. When [REDACTED] replies immediately afterwards that he would like a copy of a report to fill out himself, PO Oyague replies, "You cannot have the form, bro. That's for me to fill out, not you." PO Oyague explained that the form that he was referring to in this statement was a UF-61 complaint report, used to record criminal complaints. PO Oyague stated that officers, rather than civilians, prepare UF-61 reports.

At 3:22, PO Oyague tells "Either you make this difficult, or you make it easy. Which one you want to do?" [REDACTED] replies, "We can do difficult. I really don't know what difficult means." PO Oyague replies, "Difficult means you go in handcuffs, go in the cells." [REDACTED] asks, "For what crime?" PO Oyague replies, "You're being disorderly now." PO Oyague stated that he was considering charging [REDACTED] with disorderly conduct, as the other civilians sitting in the waiting room looked towards PO Oyague with expressions on their faces that he interpreted to mean that they were made uncomfortable by [REDACTED] behavior. None of these civilians complained to PO Oyague about [REDACTED] behavior. PO Oyague further explained that he would have likely issued [REDACTED] a summons for disorderly conduct if he continued his behavior, but would not have placed him under arrest. Seconds later, another voice states, "We have to know why you're giving out a form. What type of form." PO Oyague identified the voice as PO Delaney's.

PO Oyague was then shown the second video. The beginning of the second video is not continuous with the end of the first video. PO Oyague was not able to tell based on the videos exactly how much time passed between the two recordings. At 0:15, PO Oyague is seen telling [REDACTED] "Take a seat." He and PO Delaney then walk away from [REDACTED] moving down a hallway. PO Oyague confirmed that this was when he left [REDACTED] in the waiting room to speak to a supervisor. At 0:19, PO Oyague identified the black male officer seen in the hallway as PO Lee. At 0:23, PO Oyague identified the white male officer seen standing next to himself in the hall as PO Delaney. At 1:27, PO Oyague did not recognize the white male officer seen through the window sitting at the front desk.

At 2:19, PO Oyague is seen escorting [REDACTED] out of the stationhouse as he had described earlier. PO Oyague was not aware of any other officers who made contact with [REDACTED] during a period not recorded in the videos. It was pointed out to PO Oyague that between the time that he told [REDACTED] to take a seat and wait for a supervisor, and when [REDACTED] was removed from the building, PO Oyague did not leave the waiting area, and is not seen consulting with a supervisor. PO Oyague stated that he thought he did speak to a supervisor. Mr. Albert then interjected, stating that it was possible that the conversation with the supervisor could have taken place during the gap between the two recordings. When asked if he left [REDACTED] at any point not recorded on the video, PO Oyague replied, "Pretty sure I did." He did not, however, have a specific recollection of speaking to a supervisor or being told by a supervisor to remove [REDACTED] from the stationhouse.

PO Oyague was also shown five photographs that [REDACTED] took of several officers that were standing behind the front desk that he took from the waiting room. PO Oyague did not recognize any of these officers, including any of the officers with white-shirted uniforms. PO Oyague did not independently recall the names of any officers with white-shirted uniforms who might have been working at the front desk at the time.

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On September 22, 2016 PO Anthony Lee was interviewed at the CCRB as a subject officer. PO Lee, [REDACTED] years old at the time of the incident, is a 5'7", 148-pound black male with brown hair and blue eyes.

On May 21, 2016 PO Lee worked from 11:30 a.m. until 8:05 p.m. He was assigned as a neighborhood coordination officer, and worked with PO Steven Owens. PO Lee was in uniform, and was assigned to a marked vehicle, RMP# [REDACTED]

PO Lee did not have any memo book entries regarding the incident.

At approximately 6:00 p.m. on May 21, 2016, PO Lee traveled to the 75th Precinct stationhouse with his partner, PO Owens. The stationhouse's front entrance opens into a waiting area sometimes referred to as "the fishbowl." Past the waiting room, through a set of windowed doors, is another room that contains the stationhouse's front desk. PO Lee entered the building by himself, while PO Owens stayed outside. When PO Lee entered the waiting area, he saw the complainant, identified by the investigation as [REDACTED] speaking to another officer. PO Lee did not recall who the officer was, but stated that he was in uniform. PO Lee had not interacted with [REDACTED] before that time. PO Lee was unaware of [REDACTED] having called the stationhouse at any earlier time. [REDACTED] appeared irritated at the time, but he did not raise his voice while speaking. PO Lee did not recall if [REDACTED] was holding a phone or recording his interactions.

As PO Lee entered the waiting area, [REDACTED] looked at PO Lee's nameplate. PO Lee asked [REDACTED] what he was doing in the waiting room. [REDACTED] explained that he had come to file a complaint against a police officer. PO Lee did not recall if [REDACTED] provided any additional information about his complaint, such as which officer the complaint was against. PO Lee explained the complaint process, stating that complaints can be filed either directly with a sergeant at the stationhouse, or over the telephone with the CCRB. PO Lee showed [REDACTED] poster hanging on the wall in the waiting area that listed the CCRB's telephone number. [REDACTED] did not ask PO Lee to summon a supervisor for him. PO Lee noted that [REDACTED] demeanor calmed as he spoke.

After PO Lee showed [REDACTED] the poster, [REDACTED] turned back towards the first officer and started talking to him. PO Lee felt that the first officer had the situation under control, so he walked out of the waiting area and went into the stationhouse's basement, where the locker room is located. PO Lee estimated that he spoke to [REDACTED] for about two minutes. He did not have any further interactions with [REDACTED]. He did not know if [REDACTED] was ultimately able to file his complaint. PO Lee did not discuss [REDACTED] complaint with anybody else at the stationhouse, including any supervisors, since the first officer was already assisting [REDACTED].

PO Lee was not aware of [REDACTED] being asked to leave the stationhouse at any point. PO Lee did not recall any officer physically removing [REDACTED] from the stationhouse, or pushing [REDACTED]. PO Lee did not hear any officer tell [REDACTED] that he arrested if he did not stop recording. PO Lee did not hear an officer inform [REDACTED] that he could not record within the precinct. PO Lee was not aware of any rules against civilians recording inside the stationhouse, nor was he aware of any particular areas of the stationhouse where recording is forbidden. He did not hear any officer tell [REDACTED] that he would be arrested for acting in a disorderly manner. PO Lee did not hear any officer threaten to arrest [REDACTED] at any time. PO Lee did not recall himself or any other officer telling [REDACTED] that he could not file a complaint at the stationhouse. PO Lee did not hear any officer tell [REDACTED] to wait for a supervisor to speak with him. PO Lee did not recall [REDACTED] exiting the stationhouse and then later returning. PO Lee was not aware of [REDACTED] speaking to any officers other than the officer who was in the waiting area.

PO Lee was shown pictures taken by [REDACTED] on May 21, 2016 at the 75th Precinct stationhouse. PO Lee identified the white-shirted officer seen in Photo #2 as Lt. Cain. PO Lee did not recognize the white-shirted officer seen in Photo #5.

PO Lee was then shown two screen captures taken from cell phone videos recorded by [REDACTED]. The first screen capture showed a male officer outside the stationhouse. PO Lee identified the officer as his partner, PO Owens. The second screen capture showed several officers through the windows of the stationhouse waiting room door. From the second screen capture, PO Lee identified the one on the furthest right side of the screen to be PO Ramos, and the officer on the left as PO Diaz. PO Lee identified the black male officer in the capture as PO Owens.

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PO Lee was then shown video footage taken by [REDACTED] during the incident. At 0:05, PO Lee stated that he recognize the bald male officer seen speaking to [REDACTED]. He did not, however, recall this officer's name. PO Lee noted that this was the officer who had been speaking to [REDACTED] when PO Lee arrived. At 0:19, PO Lee identified the black male officer as himself. PO Lee was then shown the section between 0:19 and 2:17, at which time the bald officer is seen pushing [REDACTED] out of the stationhouse. PO Lee stated that he did not recall this occurrence, and did not have any independent recollection of an officer making physical contact with [REDACTED].

At 2:58, PO Lee identified the officer that [REDACTED] approached outside of the stationhouse as PO Owens. PO Lee was shown the section between 2:58 and 4:02, in which [REDACTED] and PO Owens spoke. PO Lee did not recall witnessing the interaction shown in the video.

PO Lee recognized the officer seen through the window on the door leading to the front desk area shown at 5:01. He did not know the officer's name. PO Lee was shown the section of the video between 5:01 and 5:37, showing an interaction between [REDACTED] and the officer seen through the window. PO Lee did not recognize this officer's voice. He did, however, recall that the officer had recently resigned from the NYPD to take a job with another police department.

Interview Details

On September 27, 2016, PO Robert Delaney was interviewed at the CCRB as a subject officer. PO Delaney, [REDACTED] years old at the time of the incident, is a 5'11", 220-pound white male with blond hair and blue eyes.

On May 21, 2016, PO Delaney worked from 1:30 p.m. until 8:05 p.m. He was assigned as the 75th Precinct's telephone switchboard (TS) operator. He did not have a partner. PO Delaney was in uniform, and was not assigned to a motor vehicle.

PO Delaney did not have any memo book entries regarding the incident.

At approximately 6:00 p.m. on May 21, 2016, PO Delaney received a phone call from [REDACTED]. [REDACTED] stated that he wished to file a complaint against two officers who were parked along [REDACTED]. The officers were running their lights at the time. PO Delaney recognized that these two officers were assigned to a regular post along [REDACTED]. He did not recall [REDACTED] attributing any particular actions to these officers. He did not allege that they were doing anything other than parking at the location. PO Delaney did not recall [REDACTED] complaining about the officers parking against the flow of traffic. [REDACTED] was yelling and cursing as he spoke. PO Delaney told [REDACTED] that since he was not alleging any criminality or improper conduct against an officer, no action would be taken against the officers. PO Delaney made this determination by himself. He denied consulting any officers, including supervisors, regarding [REDACTED] statement. PO Delaney then ended the call. He estimated that he spoke to [REDACTED] over the phone for approximately ten minutes.

Later that evening, [REDACTED] appeared at the stationhouse in person. PO Delaney did not recall how much time passed between the phone call and [REDACTED] visit. [REDACTED] entered the stationhouse's waiting room, which is separated from the stationhouse's front desk by a set of doors with windows on them. The doors are locked to prevent civilians from approaching the desk without permission. The windows on the door have red lettering on them warning civilians not to enter the front desk room without permission. The waiting area is sometimes referred to by officers as the "fishbowl." PO Delaney, as the TS operator, was sitting behind the desk at the time. He did not recall if any other officers were working behind the desk with him, including the desk officer. He did not recall who the desk officer was at the time, or if Sgt. William Hall worked as the desk officer. [REDACTED] was by himself at the time. PO Delaney did not recall if there were any other civilians in the waiting room at the time.

[REDACTED] started shouting and cursing in the waiting room, repeatedly stating, "I want to file a report! I want to file a report!" PO Delaney exited the front desk room and approached [REDACTED] in the waiting room to address his issue. PO Delaney explained that as the TS operator, it is his duty to speak to and assist civilians who appear in-person at the stationhouse. He was not instructed to go outside by any officer, and denied speaking to a supervisor before approaching [REDACTED]. No other officers accompanied PO Delaney. When PO Delaney approached him in the waiting room, [REDACTED] told PO Delaney that he wanted to file a complaint regarding the officers parked on [REDACTED]. PO Delaney recognized [REDACTED] voice, identifying him as the person that he had spoken to on the phone earlier in the evening. [REDACTED] did not provide any further information beyond what he had stated over the phone. [REDACTED] did not specify what kind of report that he wanted to file at the time.

PO Delaney told [REDACTED] again that since he was not alleging any criminal activity or misconduct, there was no complaint for him to report. [REDACTED] was angered by PO Delaney's decision, and continued shouting that he wanted to "file a report." PO Delaney referred [REDACTED] to a poster on the wall in the waiting room that displayed the CCRB's contact information, and stated that he could contact the CCRB if he wished to pursue the matter. PO Delaney was not aware of any paperwork at the stationhouse that [REDACTED] could have filled out to file a complaint against a police officer. [REDACTED] however, continued to insist to PO Delaney that he wanted to file a complaint. PO Delaney then told [REDACTED] that he was acting in a disruptive manner, and that he would have to leave the stationhouse if he continued to shout. PO Delaney repeated this statement several times to [REDACTED]. Eventually, [REDACTED] walked out of the waiting room. No other officers besides PO Delaney spoke to [REDACTED] during this interaction.

When [REDACTED] left, PO Delaney returned to the front desk. He did not speak to anybody else, including any supervisors, about his interaction with [REDACTED]. Approximately ten to fifteen minutes later, [REDACTED] walked back into the stationhouse's waiting room. [REDACTED] was holding a cell phone in front of him, which PO Delaney interpreted to mean that [REDACTED] was recording a video. [REDACTED] approached a small slot located below one of the windows separating the front desk room from the waiting area. PO Delaney explained that this slot is generally used to pass paperwork out to civilians in the waiting area. The slot is directly adjacent to the front desk, and is located about four feet away from where PO Delaney was seated. At the time, several police documents, including the roll call, were sitting on the front desk next to the slot. [REDACTED] reached into the slot while

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holding his cell phone. He held the phone out over the roll call. PO Delaney believed that [REDACTED] was trying to record the contents of police documents on the desk. PO Delaney told [REDACTED] to take his hand, stating that he was not allowed to stick his hand through the slot. [REDACTED] reacted by shouting once again, stating that he wanted to file a report. PO Delaney then got up to speak to [REDACTED] in the waiting area again. Once PO Delaney stood up, [REDACTED] withdrew his hand from the slot.

PO Delaney went back out into the waiting room to speak to [REDACTED] held out his phone towards PO Delaney, holding it about a foot or two away from PO Delaney's face. [REDACTED] again started to shout at PO Delaney, stating that he wanted to file a report. He did not provide any additional information about his complaint beyond what he had mentioned over the phone. PO Delaney was initially the only officer speaking to him. Later, PO David Oyague joined PO Delaney in the waiting room. PO Delaney did not recall any other officers joining him. PO Delaney and PO Oyague both informed [REDACTED] that since he was shouting and acting in a disruptive manner, he would be issued a summons for disorderly conduct if he did not leave the stationhouse. They also told him that he might be arrested for trespassing. [REDACTED] initially reacted to these threats by stating, "Fuck you, I want to file a report." PO Delaney and PO Oyague repeated these threats several times. PO Delaney denied that he or PO Oyague told [REDACTED] that only a supervisor would be able to take his complaint at that time.

Eventually, [REDACTED] left the stationhouse voluntarily. He was not arrested or issued a summons. [REDACTED] stopped recording after he left the stationhouse for the second time. PO Delaney was not aware of [REDACTED] returning to the stationhouse after he left for the second time. PO Delaney did not discuss [REDACTED] issues with any supervisors. He was not aware of [REDACTED] re-entering the building or sitting in the waiting room. PO Delaney was not aware of [REDACTED] formally filing a complaint at the stationhouse on May 21, 2016.

PO Delaney was not aware of any officer telling [REDACTED] that he would be arrested for any reason beyond disorderly conduct or trespassing. PO Delaney did not hear any officer tell him that he would be arrested for recording inside of the stationhouse. He did not recall any officer telling [REDACTED] that he was only allowed to record in certain parts of the stationhouse. PO Delaney was not aware of any officer forcibly removing [REDACTED] from the stationhouse or making physical contact with [REDACTED]

PO Delaney was shown video footage of the incident taken by [REDACTED] PO Delaney identified the room seen at the beginning of the first video as the waiting room, and the room seen through the windows as the front desk area. At 0:18, he identified the slot seen in a window separating the two rooms as the slot that [REDACTED] stuck his arm through. PO Delaney was shown the section of the video between 0:20 and 1:38 during which [REDACTED] is seen speaking to officers behind the front desk. PO Delaney denied having any recollection of this interaction. When asked when [REDACTED] allegedly place his camera in the slot relative to this section of the video, PO Delaney stated that he must have done this during his first visit to the stationhouse, rather than during his second visit as he had stated previously. At 0:58, PO Delaney identified the bald white officer standing behind the front desk as PO Oyague. At 1:03, he identified himself as the white officer seen in the top-right corner of the screen. At 1:06, he identified the black male officer as PO Raymond Welsh. At 1:19, PO Delaney was shown where PO Oyague told [REDACTED] that he would have been arrested if he did not leave the front desk room. PO Delaney stated that at that time, [REDACTED] could have been arrested for trespassing, as civilians are not allowed in the front desk area.

At 1:38, PO Delaney identified the officer seen speaking to [REDACTED] in the waiting area as PO Oyague. At 2:07, he identified the other officer seen next to PO Oyague as himself. At 2:20, PO Oyague is heard in the video stating that the form that [REDACTED] was requesting could only be filled out by the police. PO Delaney did not know what form PO Oyague was referring to. At the very end of the recording, PO Delaney stated that he was unable to identify the voice that states that the officers need know what kind of form [REDACTED] is requesting. He did not know if it was his voice. PO Delaney stated that at the time that he spoke to [REDACTED] he did not know what kind of form [REDACTED] was requesting from the officers in order to file his report. He also stated that when civilians file criminal complaints, they do not fill out the associated UF-61 complaint report themselves. The officer receiving their complaint will fill out the form instead. PO Delaney did not interpret [REDACTED] remarks about the officers parked alongside [REDACTED] as a complaint against police officers.

PO Delaney was then shown a second video provided by [REDACTED] The second video is not continuous with the first. PO Delaney was shown the beginning of the second video running until 0:18. This segment showed himself and PO Oyague walking away from [REDACTED] in the waiting area. PO Delaney was unable to tell based on the footage how much time had elapsed between the two recordings. He did not know if the two videos captured two parts of the same continuous interaction, or two separate interactions.

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At 0:21, PO Delaney identified the black male officer as PO Anthony Lee. PO Delaney was then shown a segment between 0:21 and 2:17, during which [REDACTED] spoke to both PO Lee and PO Oyague. PO Delaney had no independent recollection of this interaction. At 0:53, PO Delaney identified a poster seen on the waiting room wall as the poster containing the CCRB's contact information that he had shown to [REDACTED] during his first visit to the stationhouse. At 1:26, [REDACTED] told PO Lee that he was filing a complaint against a police officer. PO Delaney noted that this was the first time on the video that [REDACTED] clarified that his complaint was against a police officer. At 2:17, PO Oyague is seen walking [REDACTED] out of the stationhouse. PO Delaney had no independent recollection of this action. He did not recall any officers escorting [REDACTED] out of the stationhouse. He did not recall any officer making physical contact with [REDACTED] at any time.

At 5:04, the video showed [REDACTED] back inside of the waiting room. The camera showed several uniformed officers standing inside of the front desk room. PO Delaney was then shown a segment between 5:04 and 5:35, during which time an officer enters the waiting room area and speaks to [REDACTED] briefly. PO Delaney did not recognize that officer's voice.

After viewing the two videos, it was pointed out to PO Delaney that [REDACTED] was not recorded using any profanity during any of the videos. When asked to account for the lack of recorded profanity, PO Delaney recalled that [REDACTED] might have put his camera away at some point while in the stationhouse. He did not know when this gap in [REDACTED] recording might have occurred.

PO Delaney was then shown still photographs #1, 2 and 5, which were taken by [REDACTED] inside of the stationhouse. He recognized the white-shirted officer seen in photographs #1 and #2 as "Lieutenant Keane," the platoon commander. He did not recognize any of the other officers seen in the photos.

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On October 7, 2016, Sgt. William Hall was interviewed at the CCRB as a subject officer. Sgt. Hall, [REDACTED] years old at the time of the incident, is a 5'9", 195-pound white male with blond hair and blue eyes.

On May 21, 2016, Sgt. Hall worked from 3:00 p.m. until 11:23 p.m. He was assigned as the 75th Precinct desk officer. He did not have a partner. Sgt. Hall was in uniform, and was not assigned to a motor vehicle.

Sgt. Hall has been assigned to administrative duties for the past two years. As a result, he does not keep a memo book.

Sgt. Hall had no independent recollection of the incident. He did not recognize a photograph of the complainant, [REDACTED]. At the time of the incident, Sgt. Hall worked as the desk officer, and worked behind the command's front desk. The desk is located in a room adjacent to the waiting area, which is in turn adjacent to the building entrance. The waiting area and the front desk room are separated by a set of glass doors. Civilians do not have free access to the front desk area. There are signs posted on the windows designating the front desk room as a restricted area. Numerous other officers besides Sgt. Hall work behind the front desk, including officers assigned as the telephone switchboard operator or the assistant desk officer. He did not recall any officers who were behind the desk on May 21, 2016. He did not recall if PO David Oyague or PO Robert Delaney were working behind the desk at the time. From his position at the front desk, Sgt. Hall can see into the waiting area. Due to the doors between the rooms, Sgt. Hall generally cannot hear what is said inside of the waiting area unless the speaker is yelling. Sgt. Hall would occasionally visit other rooms in the stationhouse to inspect them. He did not recall if he conducted any such inspections at the time of the incident.

Sgt. Hall did not recall any civilians coming to the stationhouse to file a complaint. He was not made aware of any civilian attempting to file a complaint by any other officers. Sgt. Hall explained that when civilians come to the stationhouse to file complaints against police officers, they are directed to a supervisor such as himself. The supervisor provides them with a form to fill out. The civilian must fill the form out in their own handwriting. The form is then forwarded to the CCRB intake unit. IAB is also notified. Sgt. Hall was not aware of any officer telling any civilians that they would not be allowed to file a complaint. He was not aware of any officer telling a civilian that they would not be able to fill out a complaint form themselves, or that they could only file the complaint with the CCRB directly.

Sgt. Hall did not recall any civilians using a cell phone to make recordings inside of the stationhouse. Sgt. Hall explained that there is a small slot in the glass windows between the waiting area and the front desk room. He did not recall any individuals sticking their hand through the slot, or attempting to record through the slot using a phone. Sgt. Hall did not recall any officer telling an individual to stop recording inside of the stationhouse. Sgt. Hall did not know if civilians are entitled to record inside of the stationhouse. He did not know if there were any specific regulations regarding areas inside of the building where recording is forbidden. He felt that there are practical reasons why recording should be forbidden by the front desk, as it would intrude on the privacy of both suspects and victims of crimes at the stationhouse, and because a person recording the layout of the stationhouse might be doing so to plan for an assault or terrorist attack on the stationhouse.

Sgt. Hall did not recall any civilians shouting or causing a disturbance inside of the stationhouse. He did not recall any civilians being asked to leave the stationhouse, or escorted out of the stationhouse. He did not recall any officers pushing any civilians inside of the stationhouse.

Sgt. Hall was shown video footage of the incident recorded by [REDACTED]. When shown the section of [REDACTED] second video between 0:00 and 0:13, Sgt. Hall confirmed that the room depicted was the waiting area. At 0:20, he identified the doors seen as the doors leading into the front desk area. At 0:54, he identified the bald male behind the desk as PO Oyague. He identified the voice heard telling [REDACTED] that he cannot record as his own. He did not recognize the other white male officer seen at 1:03, but recognized the black officer as PO Welsh. While Sgt. Hall recognized his voice, he did not recall the interaction himself in detail. When shown the interaction at 1:18 where PO Oyague tells [REDACTED] that he will be arrested if he did not step outside, Sgt. Hall stated that [REDACTED] could potentially have been arrested for trespassing if he remained by the front desk area without permission, as it is labeled as a restricted area that civilians have limited access to. While Sgt. Hall did not think that it was appropriate to record by the front desk area, he himself would not have arrested [REDACTED] just for doing so.

Sgt. Hall was then shown the section of [REDACTED] third video between 0:00 and 2:15, showing PO Oyague expelling [REDACTED] from the stationhouse. Sgt. Hall did not recall this interaction. He was unaware of PO Oyague making any contact with [REDACTED].

Interview Details

██████████ and did not recall observing any contact beyond what was seen in the video. Sgt. Hall did not recognize the officer seen approaching ██████████ at 5:01. He did not recognize that officer's voice during his subsequent conversation with ██████████

Sgt. Hall was shown still photographs #1-5, showing officers behind the front desk. He recognized the white-shirted officer in photographs #1-3 as Lt. Cain, the platoon commander. He recognized the officer standing next to Lt. Cain as PO Morgan. Sgt. Hall believed that the white-shirted officer in photos #4-5 might have been Captain Melendez, but he was not certain.

Interview Details

On October 14, 2016, PO Steven Owens was interviewed at the CCRB as a subject officer. PO Owens, [REDACTED] years old at the time of the incident, is a 5'11", 203-pound black male with black hair and brown eyes.

On May 21, 2016, PO Owens worked from 11:30 a.m. until 8:05 p.m. He was assigned as a Neighborhood Coordination Officer, and worked with PO Anthony Lee. PO Owens was in uniform, and assigned to a marked vehicle, RMP # [REDACTED]

PO Owens did not have any memo book entries regarding the incident.

At approximately 6:00 p.m. on May 21, 2016, PO Owens returned to the 75th Precinct stationhouse after going on patrol. PO Lee had already gone into stationhouse and was not with PO Owens. No other officers were with PO Owens. PO Owens entered the stationhouse's front door, which opens into a lobby that also functions as a waiting area for civilians. The lobby is connected to another room which contains the front desk. The two rooms are separated by a series of doors with glass windows. An individual seated behind the front desk would be able to see into the lobby through the windows, but would not have a full view of the entire lobby. The lobby is sometimes referred to as "the fishbowl."

When PO Owens walked into the door, he was approached by an individual identified by the investigation as [REDACTED]. [REDACTED] was by himself at the time. PO Owens did not recall if there were any other civilians or officers in the lobby at the time, but stated that the lobby is a busy area with lots of foot traffic. [REDACTED] told PO Owens that he had come to file a civilian complaint against an officer. PO Owens described [REDACTED] demeanor as "excited." [REDACTED] spoke in a "medium" tone of voice. PO Owens did not consider his behavior to be disorderly. PO Owens did not recall [REDACTED] providing any specific details about the nature of his complaint.

PO Owens explained that the general procedure for dealing with civilian complaints against officers is to refer them to a sign posted in the lobby which lists the CCRB's contact information. PO Owens is also aware of forms that civilians can fill out in order to file the complaint in-person. Civilian complaint forms are to be filled out by the civilians themselves, rather than by an officer. Copies of these forms are kept at the 75th Precinct stationhouse.

When [REDACTED] told PO Owens that he wanted to file a complaint, PO Owens pointed towards the CCRB sign and told him that he could file the complaint with the CCRB. He did not recall [REDACTED] making any response to this information. He did not recall [REDACTED] requesting a complaint form, or to speak to a supervisor. PO Owens then continued walking across the lobby and went down a set of stairs into the stationhouse's lower floor. [REDACTED] remained in the lobby at the time. PO Owens had no further interaction with [REDACTED] after that point. PO Owens did not recall discussing the incident with any other officers that day. He did not notify any supervisors of [REDACTED] complaint.

PO Owens recalled that [REDACTED] was holding a cell phone during their interaction. He was not aware at the time of the incident that [REDACTED] was recording. PO Owens was later informed by other officers interviewed by the CCRB in regards to this case that video footage existed of his interaction with [REDACTED]. PO Owens did not recall any officer trying to prevent [REDACTED] from recording or threatening to arrest him if he recorded. PO Owens was not aware of any regulations governing civilians' ability to record inside of the stationhouse. He was not aware of any officer threatening to arrest [REDACTED] for disorderly conduct.

PO Owens did not initially recall if there is an officer named "Drury" assigned to the 75th Precinct. When asked if he recalled an officer by that name transferring from the NYPD to a police department in Suffolk County, he recalled that there was an officer by that name at the command. He did not recall the officer's first name.

PO Owens was shown cell phone footage of the interaction taken by [REDACTED]. He identified himself as the officer whom [REDACTED] approached outside of the stationhouse at 2:55. He stated that he had recalled meeting [REDACTED] inside of the stationhouse, rather than outside as the video shows. He confirmed that the room they enter and speak inside of is the lobby mentioned earlier. He also confirmed that the poster shown at 3:43 was the CCRB sign. When shown that [REDACTED] subsequently asked PO Owens both to get a complaint form and to speak to a supervisor after viewing the CCRB sign, PO Owens stated that he did not recall this happening. He did not know why he did not obtain a form or notify a supervisor. He knew of no reason why he would have been unable to provide a form to [REDACTED] at that time.

Interview Details

PO Owens was then shown a section of the video at 5:04, showing several uniformed officers through a door affixed to a window. Of the five officers shown, he recognized the officer standing on the right as PO Ramos, the officer standing on the left as PO Diaz, and the officer standing to the right of PO Diaz as PO Drury.

PO Owens was also shown still photographs #1, #2 and #5, taken by [REDACTED] inside of the stationhouse. He identified the white-shirted officer in the first two photographs as Lt. Cain. He identified the white-shirted officer in photograph #5 as Captain Melendez. He did not recognize the other individuals shown in the photographs.



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[INSERT NAME]
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: ROBERT DELANEY

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure # 1:

THENYPD SUBSTANTIATED THE FOLLOWING ALLEGATION, DATED 05/24/2017, AGAINST MOS DELANEY:

1. TRAFFIC VIOLATION BUREAU - COURT NON-APPEARANCE

CASE STATUS: CLOSED ON 11/07/2017

ACTION TAKEN: SCHEDULE A COMMAND DISCIPLINE

Disclosure # 2:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 08/22/2019. AGAINST MOS DELANEY:

1: FOUND PROPERTY IN DEPARTMENT VEHICLE

2: FAIL TO PROPERLY SEARCH DEPARTMENT VEHICLE

CASE STATUS: CLOSED 08/28/2019

ACTION TAKEN: CRAFT ENTRY/VERBAL INSTRUCTIONS

BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH FEBRUARY 10, 2021, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure # 3:

CCRB CASE: 201605625

REPORT DATE: 06/29/2016

INCIDENT DATE: 05/21/2016

SUBSTANTIATED CCRB ALLEGATION(S):

1. Abuse – refusal to process civilian complaint
2. Abuse – refusal to process civilian complaint

OTHER MISCONDUCT NOTED:

3. OMN – OTHER MISCONDUCT

NYPD DISPOSITION: FORMALIZED TRAINING AS TO ALLEGATIONS #1 AND #2. IN ADDITION, NYPD ISSUED A SCHEDULE A COMMAND DISCIPLINE AS TO ALLEGATION #2.

Disclosure # 4:

CCRB CASE NO. 201804621

REPORT DATE: 06/11/2018

INCIDENT DATE: 06/03/2018

SUBSTANTIATED CCRB ALLEGATION(S):

1. Abuse – search of person

NYPD DISPOSITION: no disciplinary action – DUP

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[INSERT NAME]
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: DAVID OYAGUE

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure # 1:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION(S), DATED 01/18/2017, AGAINST MOS OYAGUE:

1. TRAFFIC VIOLATIONS BUREAU - COURT NON-APPEARANCE

CASE STATUS: CLOSED ON 01/04/2018

ACTION TAKEN: SCHEDULE A COMMAND DISCIPLINE

BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH MARCH 3RD, 2020, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure # 2:

CCRB CASE: 201605625

REPORT DATE: 06/29/2016

INCIDENT DATE: 05/21/2016

SUBSTANTIATED CCRB ALLEGATION(S):

1. Abuse - Refusal to process civilian complaint
2. Abuse - Threat of arrest

NYPD DISPOSITION: Substantiated, PENALTY: Formalized Training, Command Discipline A

OTHER MISCONDUCT NOTED:

1. OMN - False official statement Other Misconduct

Disclosure # 3:

CCRB CASE: 201609781

REPORT DATE: 11/28/2016

INCIDENT DATE: 11/26/2016

SUBSTANTIATED CCRB ALLEGATION(S):

1. Abuse - Vehicle stop

DISPOSITION: Substantiated, PENALTY: Command Discipline A

Disclosure # 4: (PENDING)

CCRB CASE: 201906894

REPORT DATE: 08/04/2019

[REDACTED]
[REDACTED]
[REDACTED]

Disclosure # 5: (PENDING)

CCRB CASE: 201909830

REPORT DATE: 11/11/2019

[REDACTED]
[REDACTED]
[REDACTED]

Eric Gonzalez
District Attorney
Kings County